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SENATE BILL 1074

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO PROCUREMENT; REQUIRING A PROCURING STATE AGENCY OR
LOCAL PUBLIC BODY TO INDICATE THE APPLICABLE PUBLIC OFFICIALS
FOR WHICH DISCLOSURE OF CAMPAIGN CONTRIBUTIONS BY PROSPECTIVE
CONTRACTORS IS REQUIRED PURSUANT TO THE PROCUREMENT CODE;
PROVIDING FOR THE ISSUANCE OF CAMPAIGN CONTRIBUTION DISCLOSURE
FORMS AS PART OF REQUESTS FOR COMPETITIVE SEALED PROPOSALS;
ALLOWING REMEDIES PROVIDED BY THE PROCUREMENT CODE TO BE USED
FOR VIOLATIONS OF THE CAMPAIGN CONTRIBUTION DISCLOSURE
REQUIREMENTS FOR PROSPECTIVE CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-112 NMSA 1978 (being Laws 1984,
Chapter 65, Section 85, as amended) is amended to read:

"13-1-112. COMPETITIVE SEALED PROPOSALS--REQUEST FOR
PROPOSALS.--

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1 A. Competitive sealed proposals, including
2 competitive qualifications-based proposals, shall be solicited
3 through a request for proposals that shall be issued and shall
4 include:

5 (1) the specifications for the services or
6 items of tangible personal property to be procured;

7 (2) all contractual terms and conditions
8 applicable to the procurement;

9 (3) the form for disclosure of campaign
10 contributions given by prospective contractors to applicable
11 public officials pursuant to Section 13-1-191.1 NMSA 1978; and

12 (4) the location where proposals are to be
13 received and the date, time and place where proposals are to be
14 received and reviewed.

15 B. A request for proposals may, pursuant to Section
16 13-1-95.1 NMSA 1978, require that all or a portion of a
17 responsive proposal be submitted electronically.

18 ~~[B.]~~ C. In the case of requests for competitive
19 qualifications-based proposals, price shall be determined by
20 formal negotiations related to scope of work."

21 Section 2. Section 13-1-191.1 NMSA 1978 (being Laws 2006,
22 Chapter 81, Section 1) is amended to read:

23 "13-1-191.1. CAMPAIGN CONTRIBUTION DISCLOSURE AND
24 PROHIBITION.--

25 A. This section applies to prospective contractors
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1 with the state or a local public body.

2 B. A prospective contractor subject to this section
3 shall disclose all campaign contributions given by the
4 prospective contractor or a family member or representative of
5 the prospective contractor to an applicable public official of
6 the state or a local public body during the two years prior to
7 the date on which a proposal is submitted or, in the case of a
8 sole source or small purchase contract, the two years prior to
9 the date on which the contractor signs the contract, if the
10 aggregate total of contributions given by the prospective
11 contractor or a family member or representative of the
12 prospective contractor to the public official exceeds two
13 hundred fifty dollars (\$250) over the two-year period.

14 C. The disclosure shall indicate the date, the
15 amount, the nature and the purpose of the contribution. The
16 disclosure statement shall be on a form developed and made
17 available electronically by the department of finance and
18 administration to all state agencies and local public bodies.
19 The state agency or local public body that procures the
20 services or items of tangible personal property shall indicate
21 on the form the name or names of every applicable public
22 official, if any, for which disclosure is required by a
23 prospective contractor for each competitive sealed proposal,
24 sole source or small purchase contract. The form shall be
25 filed with the state agency or local public body as part of the

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1 competitive sealed proposal, or in the case of a sole source or
2 small purchase contract, on the date on which the contractor
3 signs the contract.

4 D. A prospective contractor submitting a disclosure
5 statement pursuant to this section who has not contributed to
6 an applicable public official, whose family members have not
7 contributed to an applicable public official or whose
8 representatives have not contributed to an applicable public
9 official shall make a statement that no contribution was made.

10 E. ~~[No campaign contribution or other thing of~~
11 ~~value shall be given by]~~ A prospective contractor or a family
12 member or representative of the prospective contractor shall
13 not give a campaign contribution or other thing of value to an
14 applicable public official or the applicable public official's
15 employees during the pendency of the procurement process or
16 during the pendency of negotiations for a sole source or small
17 purchase contract.

18 F. A solicitation or proposed award for a proposed
19 contract ~~[shall]~~ may be canceled pursuant to Section 13-1-181
20 NMSA 1978 or a contract that is executed ~~[is void]~~ may be
21 ratified or terminated pursuant to Section 13-1-182 NMSA 1978
22 if:

23 (1) a prospective contractor fails to submit a
24 fully completed disclosure statement pursuant to this section;
25 or

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1 (2) a prospective contractor or family member
2 or representative of the prospective contractor gives a
3 campaign contribution or other thing of value to an applicable
4 public official or the applicable public official's employees
5 during the pendency of the procurement process.

6 G. As used in this section:

7 (1) "applicable public official" means a
8 person elected to an office or a person appointed to complete a
9 term of an elected office, who has the authority to award or
10 influence the award of the contract for which the prospective
11 contractor is submitting a competitive sealed proposal or who
12 has the authority to negotiate a sole source or small purchase
13 contract that may be awarded without submission of a sealed
14 competitive proposal;

15 (2) "family member" means spouse, father,
16 mother, child, father-in-law, mother-in-law, daughter-in-law or
17 son-in-law;

18 (3) "pendency of the procurement process"
19 means the time period commencing with the public notice of the
20 request for proposals and ending with the award of the contract
21 or the cancellation of the request for proposals;

22 (4) "prospective contractor" means a person
23 who is subject to the competitive sealed proposal process set
24 forth in the Procurement Code or is not required to submit a
25 competitive sealed proposal because that person qualifies for a

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1 sole source or small purchase contract; and

2 (5) "representative of the prospective
3 contractor" means an officer or director of a corporation, a
4 member or manager of a limited liability corporation, a partner
5 of a partnership or a trustee of a trust of the prospective
6 contractor."

7 Section 3. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2007.

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